

Frequently Asked Questions On Recognized Obligation Payment Schedules

Q. Must auditor-controllers reduce the amount allocated to successor agencies on June 1 for the amounts that are available for taxing agencies after deducting the amount of Redevelopment Property Tax Trust Fund expenditures on the approved Recognized Obligation Payment Schedule (ROPS) for the January to June 2012 period from the amount of property tax distributed to redevelopment agencies from the fall property tax payments (typically in December or January)?

A. Yes we interpret the Supreme Court's order to clearly mandate that ABX1 26 be fully implemented, with a timing delay for some implementation steps. There was no indication that the process set forth for the January through June period should not result in additional money distributed to taxing entities. The court simply delayed when the payments were to be made, but did not eliminate those payments. This is in addition to the deduction of the amount of Redevelopment Property Tax Trust Fund on the approved ROPS for the July through December 2012 period from the June 1 property tax available. Thus this allocation will represent the entire allocation of property tax to taxing entities for the 2011-12 fiscal year.

Q. What happens to the distribution of property tax to a successor agency that does not submit a usable Recognized Obligation Payment Schedule before the June 1 date for distribution of property tax?

A. A county auditor controller can only distribute property tax based on a ROPS that is approved by Department of Finance. Department of Finance will make every effort to resolve issues and approve a ROPS for purposes of determining the June 1 distribution by May 25. If there is no ROPS prior to June 1, or it cannot be determined from the ROPS what amounts are appropriate to be funded from property tax, we believe auditor-controllers should make a timely distribution of pass through payments and distribute the remaining property tax to taxing agencies on June 1. However, Section 34182 provides that the auditor controller is to administer the Redevelopment Property Tax Trust Fund for the benefit of holders of enforceable obligations. To the extent the auditor-controller knows of enforceable obligations, either from information provided by the Department of Finance or another source, such as bond debt service payments, that must be paid from the current property tax allocation, the auditor-controller may withhold such amounts from the allocations to taxing agencies and the successor, pending receipt of an approved ROPS.

Q. Why does Finance insist that every line item be split by funding source?

A. In order to determine the amount of property tax to transfer to the successor agency to fund obligations payable from current property tax revenues (funds deposited in the Redevelopment Property Tax Trust Fund), the amount of obligations required to be funded from that source for each six month period must be determined. The Recognized Obligation Payment Schedule (ROPS) is the means of doing this determination. To add up the amounts payable from the Redevelopment Property Tax Trust Fund (RPTTF), they must be discretely identified. We strongly suggest agencies use the sample ROPS on our website, which has a separate page for each funding source, or something similar, which allows spending to be discretely identified by fund sources as described in subdivision (l) of Section 34177. If this information is not provided, it may be impossible

to distribute property tax to the successor agency because the successor will have failed to provide critical information.

We are also reviewing for appropriate use of reserves and other funding sources.

Q. Why is Finance including items that we do not consider administrative costs in the administrative cost calculation?

A. We suggest that agencies use the sample ROPS form on our website that includes a separate page for such items. While we may disagree with how some items are categorized, by having your designation, we can have a more efficient discussion of what should be considered administration. This calculation only applies to costs to be funded from the RPTTF. We would expect that many costs related to project delivery and management of buildings, as examples, would not be charged to RPTTF when rental income, bond proceeds or other project revenues and reserves are available to fund the costs.

Q. If bonds have tax increment pledged as a backstop payment source or require a reserve to be held until payment is made, should the payment source be listed as RPTTF?

A. Bonds that are sold based on the use of a revenues stream such as rents or other sources of income should be listed as obligations to be paid from that source. Otherwise the amount of property tax allocated to the successor agency will exceed the enforceable obligations. If a bond indenture requires reserves to be held until payments are made, unless these reserves have not been previously funded, new funding should not be requested for them. If funding a required reserve is the nature of the need for property tax, the obligation should be described that way and you should be prepared to document the requirement to fund the reserve in a specific amount. If the reserve will be released after payment, or a previously established reserve is no longer required, the successor agency should promptly remit released sums to the county auditor-controller for distribution to taxing agencies. If the source of revenue intended for repayment is not sufficient to fund the debt service and there is a backstop pledge of tax increment, the amount needed to supplement the primary repayment source should be listed separately on the ROPS as an RPTTF obligation.

Q. Is it acceptable to list all obligations that could be paid, but are not required to be paid, from RPTTF even though by doing so the total amount identified as payable from that source is more than is available for distribution to the successor agency for this six month period?

A. No. This results in an impossible demand for more funds than are available, and almost certainly means that the actual funding sources for items have been misidentified. We expect successor agencies to present a realistic and achievable funding plan in the ROPS. Agencies that provide such a ROPS should expect most, if not all items proposed to be funded from RPTTF, to be reviewed by Finance staff. Current property tax receipts should be the funding source of last resort, unless legally, they are the only funds that can be used for a particular obligation. If an agency is truly insolvent, meaning that there are insufficient funds available from all legally useable sources to pay for current obligations, the ROPS should identify what obligations have priority for payment and which will not be funded.

Q. If a successor agency receives a letter from Department of Finance objecting to one or more items on the ROPS, is that decision final or can the successor continue to provide information and explanation for disputed items?

A. We expect that for some items, more than the 10 day review time will be needed for the successor agency to provide all of the requested information and for Finance staff to review it and make determinations. Conversations with the review staff identified on the bottom of the letter should continue until all information has been provided that may be useful and all explanations and discussions have occurred. If we reach the conclusion that the questioned item is an enforceable obligation and/or that the proposed funding source is appropriate, we will send another letter. We anticipate sending ROPS approval notices to successors and county auditors on or around May 25 for the June 1 property tax distributions. While that approval will conclude our review of property tax funded items for the two ROPS being funded at that time, we will continue to review questioned items funded from other sources and will send revised ROPS approval letters if our views change on those items. If continued review of an item to be funded from property tax produces a change in our views, the outcome can be reflected on the next ROPS.

Q. If a successor agency does not believe Finance's ROPS review staff have understood the relevant provisions of supporting documents, or do not have a correct reading of the law, or have misapplied it in the specific circumstances relevant to a question item on a ROPS, can further Finance review be requested?

A. Finance staff is instructed to request the assistance of counsel and guidance from Finance management on difficult issues. Successor agencies may request additional review through the review staff. Those staff persons are identified at the bottom of the letter from Finance. They will brief Finance attorneys and/or management staff on the issues and then there may need to be additional communication with the successor agency on some issues. While we cannot meet with every agency, we will try to arrange the most efficient form of discussion for everyone, which may be one or more meetings or conference calls. As work leading to the distribution of property tax on June 1 is the highest priority, work on difficult issues that do not affect that distribution may be postponed until after June 1.

Q. If Finance has objected to the inclusion of a repayment of a loan from the local agency that formed the redevelopment agency on the ROPS, will Finance object if the oversight board approves the reestablishment of that interagency agreement and provides for a repayment schedule.

A. Yes, Finance will object to any reestablishment of an agreement with the local agency that created the redevelopment agency, unless the successor can demonstrate that the redevelopment agency funding was contemporaneously pledged for payment of indebtedness obligations as set forth in Section 34171 of the Health and Safety Code.